

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Application No. NUSF-92.38  
Public Service Commission, on )  
its own motion, seeking to )  
administer the Nebraska )  
Universal Service Fund's ) GRANTED, IN PART  
Broadband Program: Application )  
to the Nebraska Broadband )  
Program Received from N.E. )  
Colorado Cellular, Inc., d/b/a ) Entered: July 21, 2015  
Viaero Wireless. )

APPEARANCES:

**For N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless:**

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**For Glenwood Telecommunications, Inc., Glenwood Network Services & Raicom, Inc.:**

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**For Pinpoint Wireless, Inc. d/b/a BLAZE Wireless & Windstream Communications of Nebraska:**

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**For United States Cellular Corporation:**

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**For the Commission:**

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BY THE COMMISSION:

***Background***

By Application filed November 26, 2014, N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless ("Viaero") seeks Nebraska Broadband Program ("NEBP") support. Notice of the Application appeared in the Daily Record, Omaha, Nebraska on December 4, 2014. Petitions seeking Formal Intervention were filed by United States Cellular Corporation, Windstream Communications of Nebraska, BW Telcom and Pinpoint Wireless, Inc. d/b/a BLAZE Wireless. These Petitions were granted. Subsequently, the Interventions were withdrawn.

A staff recommendation was filed on May 11, 2015. Pre-filed testimony was filed by Viaero on June 16, 2015.

On July 6, 2015, the Commission held a public hearing on the application in Lincoln, Nebraska. For administrative efficiency, the hearing was consolidated with the hearings in NUSF-92.17 through NUSF-92.19, NUSF-92.21, NUSF-92.23 through NUSF-92.25, NUSF-92.27, NUSF-92.28, NUSF-92.30, NUSF-92.32, NUSF-92.33, NUSF-92.36, NUSF-92.37, and NUSF-92.39 through NUSF-92.40. Mr. Loel Brooks entered an appearance on behalf of the applicant.

***Project Overview***

Viaero is a wireless service provider and has been designated as an Eligible Telecommunications Carrier ("ETC") in Nebraska. Its principal office is located in Fort Morgan,

Colorado. Viaero originally proposed eleven (11) broadband projects.

Viaero provided a project timeline, a proposed budget showing project costs, a 25 percent match, and a detailed breakdown of the cost elements. Viaero provided a depreciation schedule showing the life of the investment. Viaero provided a copy of its latest financial report to demonstrate financial qualifications to complete its portion of the proposed project. In addition, Viaero provided information detailing the proposed project coverage in census blocks.

### ***Staff Analysis***

The Commission staff analyzed each project including the three projects filed by Viaero. The staff first reviewed the application to determine whether the eligibility requirements had been met. Next, the staff reviewed the application to determine whether all application requirements listed in Progression Order No. 5 were fulfilled. Each project was then scored.

To score this application, the Commission staff took various pieces of information directly from the applications submitted for each project and utilized in factor development. This data included; retail monthly recurring and nonrecurring end-user rates for the provisioning of broadband service; the speed (Mbps) of the respective service being offered; and the total grant request amount for each project.

Additionally, the staff obtained various other data, from publicly available sources, also used in factor development. This data included: residential monthly recurring rates for voice service and subscriber line charges, if applicable;<sup>1</sup> population and household by census block;<sup>2</sup> area by census block;<sup>3</sup> and broadband availability.<sup>4</sup>

The Commission staff then utilized a group assignment to prioritize areas determined as unserved,<sup>5</sup> using the broadband

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<sup>1</sup> Company specific publicly filed tariffs.

<sup>2</sup> United States Census Bureau, Census 2010 Summary File 1.

<sup>3</sup> United States Census Bureau, 2010 Tiger/Line Shapefiles.

<sup>4</sup> State Broadband Initiative Broadband Mapping Data, April 2014 submission.

<sup>5</sup> See *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures*

mapping data as a starting point for its review. Staff triaged the projects into categories, or groups, based on the nature of each area being served and the total cost of each project. Any project comprised completely of unserved areas received a Group Assignment value of one (1). If not identified as Group Assignment one, the highest scoring project submitted by each applicant received a Group Assignment of two (2), provided the project's Cost/HH value falls below the Cost/HH Threshold ("Threshold") described in the Staff Recommendation. All remaining projects, containing some hybrid of various levels of unserved and underserved areas, received a Group Assignment of three (3) through five (5), based on the total cost of the project.<sup>6</sup> Projects subject the staff's Cost/HH Threshold were assigned to a Group Assignment value of three (3) through five (5), based on the respective Cost/HH. Within each hierarchy, the project score assigns rank based on the criteria described in the Staff Recommendation.

As a result, the staff recommended approving Viaero's application for the Allen, Davenport, Dog Creek, Shickley, Valentine SE, and Whitney projects in the amount of **\$1,727,231**.

### ***Hearing***

Ms. Sue Vanicek, Director of the Department presented testimony at the hearing relative to the recommended adjustments to funding amounts. She testified that the Department reviewed each application and identified certain costs which should be excluded. Ms. Vanicek's testimony was offered and received into the record as Exhibit No. 24.

Mr. Tyler Frost, the staff Economist presented testimony related to the staff's methodology for recommending NEBP support. Mr. Frost provided further details about how the staff reviewed and scored each application. Mr. Frost's testimony was offered and received into the record as Exhibit No. 25.

Mr. Eric Preston, General Counsel for Viaero, testified in support of the application. Mr. Preston's pre-filed testimony described the projects recommended for broadband support. His testimony was received into evidence as Exhibit No. 27. Viaero's application was received into evidence as Exhibit No. 20. Mr. Preston testified that Viaero provides wireless service

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*Regarding the Nebraska Universal Service Fund, Docket No. NUSF-77, Progression Order No. 5, ORDER at 7 (November 21, 2011).*

<sup>6</sup> All projects filed for the NEBP in 2015 are independent of all other projects filed by the same applicant.

to customers in a form now widely referred to as 4G. Viaero maintains 33 retail stores (including kiosks) in Nebraska. With receipt of NEBP support, Viaero will provide broadband speeds within the specified footprint of at least 4 Mbps downstream and 1 Mbps upstream.

No party testified in opposition to the Viaero request for NEBP support as recommended by the Commission staff.

#### O P I N I O N      A N D      F I N D I N G S

On June 14, 2011, the Commission issued Progression Order No. 3 in NUSF-77, finding that making explicit NUSF support available for broadband deployment would complement the Commission's existing goal to support networks that provide voice service as well as advanced services. In addition, the Commission found promoting ubiquitous broadband availability was a state and federal responsibility which would require both state and federal financial support. Through further progression orders the Commission adopted criteria for the NEBP program eligibility, application requirements, and provided a timeline for the consideration of NEBP projects.

Based on the application and the evidence in the record, the Commission finds the Viaero application for NEBP program support should be approved in part consistent with the staff recommendation. The Commission approves support up to an amount of **\$1,727,231 or actual cost** of construction for the project(s) whichever amount is lower.

#### Reimbursement Process:

Viaero must first make the investment and then may file a request for reimbursement with the NTIPS Department. Viaero does not need to complete the construction process prior to seeking reimbursement; rather, it may work with the NTIPS Department to develop intervals at which reimbursement can be sought. The NEBP program will reimburse Viaero for reasonable expenditures made related to project specifications detailed in the application and approved in this Order. Once the investment is made, Viaero shall file a request for support, provide the NTIPS Department with copies of the invoices or other acceptable documentation<sup>7</sup> and shall certify to the Department that it had made the described investment for the provision, maintenance and upgrading of facilities and services in the area defined in the application.

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<sup>7</sup> The Commission will provide the Department with the discretion to determine the type of documentation needed to verify the expenditures made when not provided through a third-party invoice.

As a NEBP program recipient, the Commission finds Viaero must meet the following conditions:

1. The supported broadband service upon completion of the deployment must be available as a service offering to all households within the area defined by the application for a minimum period of five (5) years;
2. The project must be completed within 24 months from the date of this Order unless otherwise extended by the Commission;
3. Voice grade service must be available to customers within the service area of the broadband deployment;
4. Access to emergency services must be available to customers within the service area of broadband deployment;
5. Broadband support must only be used for the purposes intended and which have been approved by the Commission;
6. Voice and broadband service in the area described in its application must be offered at reasonably comparable rates for comparable services it offers in urban areas;
7. Reporting, verification, and audit requirements adopted by the Commission for oversight of the NEBP program must be met; and
8. Adherence to all applicable Commission rules, regulations and orders.

Continuing Nature of Requirements:

The Commission will enforce these requirements throughout the period of the grant and the five (5) year period following the completion of the project to ensure the Commission's objectives for this program are being met. Viaero shall notify the Commission in writing once the project(s) have been completed and the proposed broadband service is being offered. The Commission may take any action it deems necessary and appropriate to enforce the requirements and conditions in this Order.

To encourage public awareness about the deployment of broadband service in Nebraska, we find Viaero should be required to report broadband availability to the Commission upon completion of the project(s).

These opinions and findings carry no precedential value other than establishing minimum standards and criteria the Commission applied in this application for NEBP program support. The Commission may modify the minimum requirements and

conditions for future petitions for support from the NEBP program.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Application filed by N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless shall be, and it is hereby, granted in part, to the extent provided herein.

IT IS FURTHER ORDERED that Applicant shall comply with requirements set forth herein.

IT IS FURTHER ORDERED that Applicant shall submit detailed and accurate invoices and other documentation required by the Department prior to reimbursement for the supported project(s).

IT IS FURTHER ORDERED that Applicant shall use Nebraska Broadband Program support only for the purposes described in its application and authorized by the Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 21st day of July, 2015.

NEBRASKA PUBLIC SERVICE COMMISSION  
COMMISSIONERS CONCURRING:

Vice Chairman

ATTEST:

Executive Director

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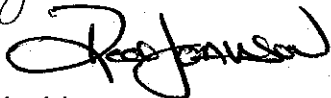
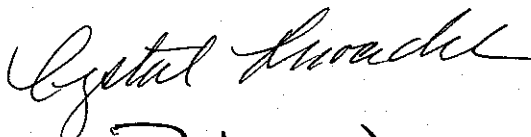
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COMMISSIONERS CONCURRING:



//s//Frank E. Landis

//s//Tim Schram

NEBRASKA PUBLIC SERVICE COMMISSION



Vice Chairman

ATTEST:



Executive Director